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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,418	11/06/2003	David J. Socha JR.	MTU-20902/01	8355
7590 11/30/2004				
Douglas L. Wathen Gifford, Krass, Groh, Sprinkle Anderson & Citkowski, P.C. 280 N. Old Woodward Ave., Suite 400 Birmingham, MI 48009-5394			EXAMINER EDEL, JOSEPH F	
			ART UNIT 3636	PAPER NUMBER
DATE MAILED: 11/30/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/702,418

Applicant(s)

SOCHA ET AL.

Examiner

Joseph F Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

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***Claim Objections***

1. Claims 1 and 14 are objected to because of the following informalities:
  - a. claim 1, line 3, "spaced form the first leg member, the second leg member" should be deleted;
  - b. claim 1, line 7, -- spaced form the first leg member, the second leg member-- should be inserted after "a second leg member";
  - c. claim 14, line 1, "claim 1" should read --claim 11--.Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5-7, 10, 11, 15, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,246,928 to Haynes et al.

Haynes et al. disclose a nesting chair that includes all the limitations recited in claims 1, 5-7, 10, 11, 15, 16, 19, and 20. Haynes et al. show a nesting chair having a self supporting seat base (Fig. 5) including first and second leg members 1,2 (Fig. 2) each having a front leg portion 3,6 (Fig. 2), a rear leg portion 4,7 (Fig. 4), and a

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horizontal portion 5,8 (Fig. 5) interconnecting upper ends of the leg portions, at least one transverse member 10 (Fig. 5) extending between and interconnecting the horizontal portions of the first and second leg members, a seat cushion 17 (Fig. 1) supported by the seat base and defining a horizontal plane, a generally L-shaped back support bracket 23 (Fig. 6) with a first generally horizontal end connected solely to and support by the at least one transverse member and a second vertical end extending upwardly adjacent a rear edge of the seat cushion, and a seat back 21 (Fig. 1) connected to the second end of the back support bracket and disposed entirely below the horizontal plane of the seat cushion.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes et al.

Haynes et al. disclose a nesting chair that is basically the same as that recited in claim 2, 3, 12, and 13 except that the seat base lacks a pair of parallel transverse members connected to the first end of the back support bracket, as recited in the claims. In view of the legal precedent established by the prior case law St. Regis Paper Co. v. Bemis Co. Inc., 193 USPQ 8, 11 (7<sup>th</sup> Cir. 1977) which states that duplication of

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parts for a multiplied effect has no patentable significance, it would have been within the purview and obvious to one of ordinary skill in the art at the time the invention was made to provide another transverse member on the first end of the seat base for enhancing the safety of the seat by providing additional reinforcement afforded by the transverse members.

6. Claims 8, 9, 14, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes et al. in view of U.S. Patent No. 2,539,919 to Meek, Jr. et al.

Haynes et al. disclose a nesting chair that is basically the same as that recited in claim 8, 9, 14, 17, and 18 except that the leg members lacks inwardly bent horizontal portions, as recited in the claims. Meek, Jr. et al. show a nesting chair similar to that of Haynes et al. wherein a self supporting seat base (Fig. 1) includes first and second leg members 11,12 (Fig. 1) each having a front leg portion 11L,12L (Fig. 1), a rear leg portion 11L,12L (Fig. 1) , and an inwardly bent horizontal portion 11B,12B (Fig. 3) with a rear section, a central region, and a front section. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the nesting chair of Haynes et al. wherein the horizontal portions of the leg members are bent inwardly toward each other forming a rear section, a central region, and a front section, such as the nesting chair disclosed in Meek, Jr. et al. One would have been motivated to make such a modification in view of the suggestion in Meek, Jr. et al. that the inwardly bent horizontal portions of the leg members provides rigid support concealed completely underneath the seat cushion.

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***Response to Arguments***

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7. Applicant's remarks with respect to amended claims 1-19 and new claim 20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.


For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).



JE

November 22, 2004



Peter M. Cuomo  
Supervisory Patent Examiner  
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